1. Rejection of Claims 1, 2, 4, 8, 10-12, 14, and 15

The Office Action states,

> Claims 1, 2, 4, 8, 10-12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueda et al (EP 0 704 463), cited by applicants.
>
> Note paragraphs [0008], [0100]-[0112], [-126]-[0130], [0136]-[0145] and [0149]-[0150].

RESPONSE

Applicant respectfully traverses the rejection of claims 1, 2, 4, 8, 10-12, 14, and 15.

For a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the claims is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California,* 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.,* 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must also be arranged as required by the claim. *In re Bond,* 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicant is currently claiming a process for preparing a propylene polymer composition in an at least two-stage process, wherein,

> in a first polymerization stage, a propylene homopolymer is prepared by polymerization, and

in a second polymerization stage, ethylene and propylene are polymerized to give an **ethylene/propylene copolymer** comprising from **95% to 99.5% by weight of ethylene**,

wherein the amount of the ethylene/propylene copolymer in the propylene polymer composition ranges from **10 to 50% by weight**, and the propylene polymer composition comprises a melt flow rate, MFR, from 2 to 50 g/10 min. in accordance with ISO 1133 at 230°C and 2.16 kg.

Alternatively, EP 0 704 463 (herein referred to as "Ueda, et al.") discloses a process for preparing propylene polymer compositions consisting of various possible components, including (co)polymer (a), copolymer (b), copolymer (c), copolymer (d), and copolymer (e), wherein each of the aforementioned possible components can consist of various sub-components (i.e., various monomers and comonomers in various, large mole-percentage ranges). However, Applicant respectfully believes none of the various possible polymer components disclosed in Ueda, et al. anticipate Applicant's currently and specifically claimed process in which, in part, in a first polymerization stage, a propylene homopolymer is produced, and in a second polymerization stage, an ethylene/propylene copolymer comprising from **95% to 99.5% by weight of ethylene** is produced. In fact, nowhere in the current Office Action has the Examiner outlined **how** and **where** Ueda, et al. specifically discloses Applicant's currently claimed process to constitute an anticipation under the statute. However, this is the

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Examiner's initial burden. See MPEP §2131 and 37 CFR §1.104. Accordingly, Applicant respectfully believes the current rejection should be withdrawn.

In light of the above, Applicant respectfully believes claims 1, 2, 4, 8, 10-12, 14, and 15 are not anticipated by Ueda, et al. As such, Applicant respectfully requests the Examiner to withdraw the current rejection.

2. Rejection of Claims 1, 2, and 10-12 Under 35 U.S.C. §102(b)

The Office Action states,

> Claims 1, 2 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsunaga et al (EP 0 792 914), cited by applicants.
>
> Note paragraphs [0011], [0022]-[0030], [0056]-[0062], [0073]-[0078] and [0080].

RESPONSE

Applicant respectfully traverses the rejection of claims 1, 2, and 10-12.

For a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the claims is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California,* 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.,* 9 USPQ2d 1913, 1920 (Fed.

Cir. 1989). The elements must also be arranged as required by the claim. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicant is currently claiming a process for preparing a propylene polymer composition in an at least two-stage process, wherein,

in a first polymerization stage, a propylene homopolymer is prepared by polymerization, and

in a second polymerization stage, ethylene and propylene are polymerized to give an **ethylene/propylene copolymer** comprising from **95% to 99.5% by weight of ethylene**,

wherein the amount of the ethylene/propylene copolymer in the propylene polymer composition ranges from **10 to 50% by weight**, and the propylene polymer composition comprises a melt flow rate, MFR, from 2 to 50 g/10 min. in accordance with ISO 1133 at 230°C and 2.16 kg.

However, as with Ueda, et al. discussed *supra*, EP 0 792 914 (herein referred to as "Matsunaga, et al.") alternatively discloses a process for preparing polyolefin compositions consisting of various possible components, including propylene polymer (A), propylene block copolymer (A'), propylene block copolymer (A''), propylene polymer (A'''), copolymer (B), and terpolymer (C), wherein each of the aforementioned possible components can consist of various sub-components (i.e., various monomers and comonomers in various, large mole-percentage ranges). However, Applicant respectfully believes none of the various possible polymer

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components disclosed in Matsunaga, et al. anticipate Applicant's currently and specifically claimed process in which, in part, in a first polymerization stage, a propylene homopolymer is produced, and in a second polymerization stage, an ethylene/propylene copolymer comprising from **95% to 99.5% by weight of ethylene** is produced. In fact, nowhere in the current Office Action has the Examiner outlined **how** and **where** Matsunaga, et al. specifically discloses Applicant's currently claimed process to constitute an anticipation under the statute. However, this is the Examiner's initial burden. See MPEP §2131 and 37 CFR §1.104. Accordingly, for this reason alone, Applicant respectfully believes the current rejection should be withdrawn.

Notwithstanding, Matsunaga, et al. discloses propylene polymers A and A'-A''' consist of a preponderance of propylene, while the ethylene/alpha-olefin copolymer (B) consists of ethylene and an alpha-olefin having 4-12 carbon atoms. See page 4, line 30; page 5, line 15; page 6, line 1; page 6, line 41; and page 7, lines 7-10, respectively, in Matsunaga, et al. Therefore, Applicant respectfully believes none of the various possible polymer components disclosed in Matsunaga, et al. anticipate Applicant's currently and specifically claimed process in which, in part, in a first polymerization stage, a propylene homopolymer is produced, and in a second polymerization stage, an ethylene/propylene copolymer comprising from **95% to 99.5% by weight of ethylene** is produced.

In light of the above, Applicant respectfully believes claims

1, 2, and 10-12 are not anticipated by Matsunaga, et al. As such, Applicant respectfully requests the Examiner to withdraw the current rejection.

3. Rejection of Claims 1, 2, 4, 5, 7, 8, 10-12, 14, and 15 Under 35 U.S.C. §103(a)

The Office Action states,

> Claims 1, 2, 4, 5, 7, 8, 10-12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda et al (EP 0 704 463).
>
> The reference to Ueda et al teaches the production of a polyolefin composition that may comprise a propylene homopolymer with an ethylene copolymer having more an ethylene content that may be greater than 95% by weight paragraph [0145], as recited herein. The reference teaches addition of the third resin, recited in claims 7 and 14 at paragraphs [0126] et seq.. The reference teaches the polymerizations to occur in the gas phase and under pressures and temperatures that embrace those taught herein. See paragraphs [0107] and [0143]. The manipulation of pressure, as recited in instant claim 5 would be an obvious step to those skilled artisan in order to change reaction vessels in the sequence. The order of the steps may be changeable as taught by the reference at paragraph [0008]. Further, the crystallinity of the third resin component, due to the relative % by weight amounts of comonomer would be expected to produce a polymer having a higher branching distribution, and thus, be less crystalline, as recited in claim 7. Nothing unexpected has been shown on the record.

RESPONSE

Applicant respectfully traverses the rejection of claims 1, 2, 4, 5, 7, 8, 10-12, 14, and 15.

The U.S. Supreme Court in *Graham v. John Deere Co.*, 148

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U.S.P.Q. 459 (1966) held that non-obviousness was determined under §103 by (1) determining the scope and content of the prior art; (2) ascertaining the differences between the prior art and the claims at issue; (3) resolving the level of ordinary skill in the art; and, (4) inquiring as to any objective evidence of non-obviousness.

Accordingly, for the Examiner to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §2142.

Arguments *supra* regarding Ueda, et al. are incorporated herein by reference in their entirety.

As outlined above, Applicant respectfully believes Ueda, et al. fails to disclose Applicant's currently claimed process for preparing a propylene polymer composition in an at least two-stage process, wherein,

in a first polymerization stage, a propylene homopolymer is prepared by polymerization, and

in a second polymerization stage, ethylene and propylene are polymerized to give an **ethylene/propylene copolymer** comprising from **95% to 99.5% by weight of ethylene**,

wherein the amount of the ethylene/propylene copolymer in the propylene polymer composition ranges from **10 to 50% by weight**, and the propylene polymer composition comprises a melt flow rate, MFR, from 2 to 50 g/10 min. in accordance with ISO 1133 at 230°C and 2.16 kg. Additionally, Applicant respectfully believes none of the various possible polymer components disclosed in Ueda, et al. anticipate Applicant's currently and specifically claimed process in which, in part, in a **first polymerization** stage, a propylene homopolymer is produced, and in a second polymerization stage, an ethylene/propylene copolymer comprising from **95% to 99.5% by weight of ethylene** is produced, nor is there is, nor would there have been any suggestion or motivation to modify the various polymer components disclosed in Ueda, et al. in an attempt to arrive at Applicant's currently claimed process. However, this is the Examiner's initial burden to establish a *prima facie* case of obviousness. See MPEP §2141 and §2142. Accordingly, Applicant respectfully believes the current rejection should be withdrawn.

In light of the above, Applicant respectfully believes claims 1, 2, 4, 5, 7, 8, 10-12, 14, and 15 are not rendered unpatentable over Ueda, et al. As such, Applicant respectfully requests the Examiner to withdraw the current rejection

CONCLUSION

Based upon the above remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over

the references of record. The Examiner is therefore respectfully requested to reconsider and withdraw the currently pending rejection, and allow claims 1-2, 4-5, 7-8, 10-12, and 14-15. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

In order to advance the prosecution of the instant application, the Examiner is welcomed to telephone the undersigned practioner if he has any questions or comments.

Respectfully submitted,

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. 571-273-8300) on January 2, 2009

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Date

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